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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,028	03/15/2004	Andre Morin	MON212	1250
34356	7590	08/11/2006	EXAMINER	
ASHKAN NAJAFI, P.A. 6817 SOUTHPOINT PARKWAY SUITE 2301 JACKSONVILLE, FL 32216			OKEZIE, ESTHER O	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 08/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/801,028	Applicant(s) MORIN ET AL.	
	Examiner Esther O. Okezie	Art Unit 3652	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).


10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.


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Continuation of 11. does NOT place the application in condition for allowance because:

- 1) Applicant has argued that no prior art of record teaches or renders obvious a housing positioned inside of a spool opening and being secured to said stationary handle. In response, as described in the last office action, McDermott clearly shows in Figure 3 the stationary handle (31) secured by and within the housing (cylindrical body 17), furthermore the McDermott reference clearly states, the device is "adapted to engage the internal periphery of an annular package" (col. 1, lines 57-58) which would include a spool or any tubular item to be carried.
- 2) Applicant has argued no prior art of record teaches a stationary handle has a downwardly converging bottom surface forming a stop against which said movable handle is directly abutted when said movable handle is adapted to the lowered position. In response, this amendment is not described in the specification and the reference of Diaz teaches these limitations including a downwardly converging stop surface (29) for the handle to abut (see page 3 of last office action).
- 3) Applicant has argued that there is no motivation to combine McDermott and Kulage to obtain a plurality of pistons because McDermott already employs a plurality of gripping elements and the structural design would not benefit from an additional piston. In response, as described previously in the last action, McDermott discloses only one piston in order to actuate one set of latching members in order to engage the inside surface of an annular package. Kulage discloses a similar device for engaging the inside of a hollow cylinder, including a first piston with a set of latches and then a second piston below the first with a second set of latches. Therefore it would have been obvious to one of ordinary skill in the art to duplicate the number of piston/latch arrangements of the McDermott as taught by Kulage in order to provide a stronger hold on the inside of the device to be lifted. It is misleading to presume that the device of McDermott could not structural benefit from a second gripping arrangement below the first because the device employs a plurality of gripping elements (25) on the latches. The gripping elements or ridges (25) are further proof that it is advantageous to provide a plurality of gripping sections along the inside of the object in order to strengthen the engagement. Kulage provides an additional gripping arrangement below the first, while McDermott provides a plurality of gripping ridges. In combination or separately these devices solve the same problem by using a plurality of gripping surfaces to strengthen the grip of an object (please see pages 2-5 of the last action for further detail).
- 4) Applicant has argued that no prior art of record teaches a second set of said plurality of latching members are diametrically spaced approximately 120 degrees apart, said second set of latching members being disposed below the first set of latching members. In response, Applicant is advised to review the last office action pages 5-6. McDermott teaches latching members spaced 120 degrees apart (fig 2) and Kulage teaches a second set of latching members disposed below the first set (fig 6).
- 5) Applicant has argues that there is no teaching, suggestion, or motivation, to combine the vertical grooves of the device of Cooper with the stationary handle of McDermott because this would be unnecessary and counterintuitive. In response, this argument is puzzling to the examiner since the device of Cooper and the device of McDermott both serve to grip the inside of a tubular object by using a stationary handle and a movable handle to operate latching members in order to engage the inside of a tubular object. It is unclear why the use of vertical grooves to guide the movable handle of McDermott would be unnecessary or counterintuitive when both devices operate in a similar manner.

Applicant has written in each paragraph of the remarks "the examiner did not rebut applicant's assertion regarding this matter". Examiner disagrees and advises Applicant to review the last office action for further detail including the rejections clearly described in pages 1-7 and the response to arguments on page 8.